

NEWSLETTER

Volume II

February, 1985



Number 3

CONTRACT UPDATE

On December 31, 1984, Chancellor Duff submitted the request for an appropriation necessary to fund our contract to Governor Dukakis. It was passed to OER (Office of Employee Relations) for review of all the amounts. The appropriation was hand carried on February 11 to Administration and Finance for their review. They will also determine how to file for the funding. It can be processed as a separate bill or as part of a supplemental budget. So far all contracts have gone through as separate bills. Since the Governor has to act within 45 days, and this appropriation has to be filed by the middle of February, it is expected that Administration and Finance will be presenting this legislation as a separate bill by the end of the week. Administration and Finance along with the Governor's legal staff will draft the bill.

It will then go to the floor of the House, and since it is a money bill, it will be referred to House Ways and Means. It then goes to the House for three readings and is then engrossed (tentatively enacted). It then follows the same process in the Senate. It will be discharged from the Senate Ways and Means and have three readings in the Senate. It will then be passed on to be engrossed. If there are no changes, it goes back to the House for enactment and then to the Senate for enactment. It then goes to the Governor for signing.

MCCC Legislative Agent, Mike McSweeney is following our contract funding. In addition, MTA has assigned Rick O'Neill, Jr. Esquire to also monitor its progress.

JOINT STUDY COMMITTEE

The Special Joint Study Committee which was established by the factfinder had its first meeting on Friday, February 8, 1985. The first meeting was general discussion, setting of an agenda, and setting the next three meeting dates. This committee was established to resolve contract issues referred to in the factfinder's report, address issues which required in-depth study and discussion, resolve matters of mutual concern, explore and identify root causes of current problems between the parties with a view to resolution, and make recommendations to the parties during the life of the Agreement as recommended by the factfinder.

Based on the factfinder's recommendation, three presidents serve on the committee: David Bartley, Holyoke Community College, Gerard Burke, Massasoit Community College, and Eileen Farley, Bristol Community College. Also, J. Carlton LaPorte, Vice Chancellor for Employee Relations represents the Board of Regents. Representing the MCCC are Tom Parsons, MCCC Vice President, Mass. Bay Community College, Dennis Fitzgerald, MCCC Grievance Coordinator, Massasoit Community College, R. Michael McSweeney, Negotiating Team Chair, Bunker Hill Community College, Jack Carpenter, Esquire, MTA Consultant, and an alternate, George Ashley, MCCC Board of Director/Executive Committee member, Holyoke Community College.

IN THIS ISSUE:

- Contract Update
 - Joint Study Committee
 - Resolved Grievances
-

RESOLVED GRIEVANCES

In the December issue of the **Newsletter**, it was reported that the arbitration award concerning a returning administrator at **Massasoit Community College** was being appealed to the Superior Court by the Board of Regents arguing that the arbitrator exceeded his authority by deciding on a matter which was both outside his province and never submitted to him. In a decision from Robert L. Steadman, Justice of the Superior Court, it stated that the earlier (1977-80) contract contained the applicable provisions and was a threshold matter that was crucial to the determination of the merits of the case, and based on arguments presented, the 1977-80 contract agreement became a proper basis for an award. He stated that to vacate or modify the arbitrator's award would be inappropriate. The Plaintiff's petition was denied; the arbitrator's award was affirmed. This case is now pending before the 11.06 Administrative Placement Panel.

The Board of Regent's petitioned the Superior Court to try and prohibit the MCCC from proceeding with an arbitration regarding a non-reappointment in the first three years at **Springfield Technical Community College**. On January 4, 1985, Justice of the Superior Court Steadman ordered that the Plaintiff's petition to prohibit MCCC/MTA from arbitrating this issue be denied. (The arbitration hearing was held on January 18, 1985.)

A grievance was filed at **Massasoit Community College** concerning the hiring of part-time faculty who did not meet minimum educational requirements that had been established in the Office Administration Department since its inception (adjunct faculty without Master's or Bachelor's Degrees were hired). The College will take appropriate measures to avoid the undesirable situation by placing classified ads in the **Boston Globe** as well as making inquiries at other area colleges.

A system-wide **MCCC** grievance was resolved concerning the notification of job postings and vacancies. The Board of Regents has instructed the Community College Presidents to forward **all** vacancy lists directly to MCCC President James Rice in accordance with Article XVI.

A grievance was resolved concerning a returning administrator at **Greenfield Community College** who returned to the unit with a salary higher than what the contract allowed. The returning administrator, who has subsequently returned to administration, will have the differential in the salary deducted from his retro-active check, and if he returns to the unit, he shall return at the correct step.

A grievance was resolved concerning the former president of **Massasoit Community College**, Dr. George Ayers, former President of **Mass. Bay Community College**, John McKenzie, and Chancellor John Duff who entered into an agreement to violate the contract by placing a former administrator on an Associate Professor line without posting the position and thereby adversely affecting two unit members at **Massasoit Community College**. This action diminished one promotional opportunity and affected a unit member with a lower salary in the department who could have applied for the position. As a result of the resolution of this grievance, the College made an additional promotion to the rank of Associate Professor available, effective September, 1983. The promotion was awarded to Professor Sally Barney. Professor Paul Hardy shall receive a one-step increment effective September 1, 1983, since he would have received priority of consideration if he had applied. This one-step increase brings Professor Hardy's salary up to the salary which should have been advertised. The College acknowledges that the position should have been posted.

Professor Neal Nettler, **Holyoke Community College**, was non-reappointed in his fifth year of a regular appointment. The administrator at the College supplied reasons for the non-reappointment according to Article 11. However, the reasons listed were reasons for retrenchment and not for non-reappointment. In addition, Mr. Nettler was non-reappointed because of the return of an administrator to the unit. The decision at Level II states, "that reasons for non-reappointment under Article 11 do not include bona fide financial reasons, reduction or shifts in academic emphasis, or other bona fide programmatic reasons. These are reasons for retrenchment, for which Article 19 prescribes certain bases and procedures. The College has not complied with these procedures.

"...No unit member shall be terminated or otherwise displaced by reason of the return of an administrator to the bargaining unit."

More important, this termination violates Article 11.04 (3) which provides that 'no unit member shall be terminated or otherwise displaced by reason of the return of an administrator to the bargaining unit.'

The College argued that the grievant was displaced by the unanticipated return of another faculty member, but the fact remains that the Mathematics Department would not now be over staffed had the former administrator not returned. The College may not terminate unit members to make room for an administrator."

The remedy from Level II stated that the College must rescind Professor Nettler's termination for the 1985-86 academic year.

A grievance filed by Dennis Fitzgerald at **Massasoit Community College** against former Division Chairperson Carol Moore charging her with arbitrary, capricious and discriminatory placement on the prioritized promotion list was resolved. The Dean of Academic Affairs determined that the application of the Collective Bargaining Agreement required that he revise the prioritized list for promotion to Professor effective September, 1984, submitted to him by the grievant's Division Chair. The grievant's divisional priority ranking was revised from the fifth position to the first position on the Professor list. The grievant's ranking was reversed, and the grievant was promoted effective September, 1984. In addition, the parties acknowledged that the Division Chair violated the contract.

A grievance filed by **Mass. Bay Community College** was resolved at arbitration concerning the retrenchment and seniority of Peter Konotopka. The College agreed to restore four months and 27 days of lost seniority and 5 and 5/9 days of sick leave which were lost.

In a unit determination petition from **Massasoit Community College** filed with the Labor Relations Commission, it was resolved that the position of Coordinator of Instructional Media is a unit position.

Two grievances were resolved concerning Professors Joseph Cleary and John Joseph at **Massasoit Community College**, where they charged (former) Division Chairperson Carol Moore with arbitrary, capricious and discriminatory denial of a DSA. This was resolved when the College agreed to pay the grievants the sum of \$500 which was the DSA award.

A promotion grievance filed by Professor Joseph Cleary at **Massasoit Community College**, for arbitrary, capricious and discriminatory denial of a promotion by (former) Division Chair Carol Moore was resolved when the College agreed to grant the next available promotion to Professor Cleary. Professor Cleary was awarded a promotion effective April 7, 1985.

All of the above grievants were represented by MCCC Grievance Coordinator, Dennis Fitzgerald.

MCCC HIGHLIGHTS

In 1981, MTA initiated a program of issuing plastic membership cards which were good for five years. If funded at the Annual Meeting this year, new cards will be issued. If any MCCC/MTA/NEA unit members no longer have a card, please contact Pat DeCastro or Jody Swarms in the Division of Finance & Accounting at MTA (1-800-392-6175 Ext. 225) so that a replacement card can be issued after verification of membership status.

Ray Lemieux, MCCC Treasurer, Springfield Technical Community College, has been appointed to the Health and Welfare Trust Fund Committee. A report is due from this committee by March 1, 1985.

The MTA is offering interest-free loans to members who are experiencing extreme hardship. The interest-free loans originally arose when schools were on strike and members had no income. It was expanded to help the membership if pays were held back because of a lack of funding. It was, however, not intended to cover retroactive pay. Therefore, if you are applying for a loan, you must explain the reason for your request and must be able to show hardship. If you are interested in applying, you must send a letter to Jim Rice, Quinsigamond Community College, Worcester, Mass. He will then forward it on to the MTA.

OPENING ON MTA BOARD OF DIRECTORS AND EXECUTIVE COMMITTEE

At the Annual Meeting of the MTA last year, a segmental distribution for seats came into existence which now allows the MCCC along with the four other higher education segments to have a seat on the MTA Board of Directors. Any member of the MCCC is eligible to run for this MTA Board of Director seat. In addition, the higher education seat on the MTA Executive Committee is open. Any member from within the five higher education segments is eligible to run for the MTA Executive Committee seat. This person will represent the five higher education segments. The elections will take place at the MTA Annual Meeting, and the delegates to that meeting will vote for the Board and Executive Committee candidates. Applications can be obtained by contacting MTA. Fifty signatures are required, and the application must be filed by **March 1, 1985**. Anyone who is a candidate and would like to have a statement in the next **Newsletter** should send it to the Editor no later than March 6, 1985.

KNOW YOUR CONTRACT

February 15	Notice of Non-Reappointment first through third years.
February 22	Faculty receive Course Materials Evaluations.
February 28	Recommendations for Promotion due Dean from Division Chairs, and, upon request , to unit members.
March 1	Sabbatical Leave List and priorities to Dean's and applicants.
March 15	Recommendations for tenure and one-year appointments to Dean.

COMMUNITY COLLEGE CALENDAR

March 8-10	NEA Higher Education Conference, Park Plaza, Boston. The theme is "Improving the Way Higher Education Works" and will focus on what faculty can do to improve not only the conditions under which we work but also the manner in which our institutions of higher education operate. MTA will host conference reception on the evening of March 8.
March 15	Deadline for MTA Public Relations Grant Proposals.

MCCC Newsletter • MCCC/MTA 20 Ashburton Place, Boston, MA 02108

Editor: Catherine A. Boudreau, Massasoit Community College

Design: Courtney McGlynn, Bunker Hill Community College

Printing: PDM Associates, 1191 River Street, Hyde Park, MA 02136